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LETTER DATED 16 AUGUST 1993 FROM THE PERMANENT REPRESENTATIVE OF BOSNIA AND HERZEGOVINA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to present to you the attached letter dated 11 August 1993, from my President to Your Excellency.

May I ask for your kind assistance in circulating this letter as a document of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative

Annex

Letter dated 11 August 1993 from the President of the Presidency of the Republic of Bosnia and Herzegovina addressed to the President of the Security Council

Relating the report of the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia that was submitted to the United Nations Security Council on 6 August 1993 (S/26260), I would like to make the following objections to the report:

GENERAL

1. In our opinion the report does not give a true picture of the cause and nature of the war in Bosnia and Herzegovina, nor does it so relating the course of the peace negotiations. The complex ethnic structure and the historical background are not the essential causes of the war. The cause of the war is the aggression from the outside. This has also been the position taken by the international community which has imposed sanctions over Serbia due to incentiveness and continuation of the war.

2. The report unjustly identifies the role and the responsibility of legal institutions of the State that is defending herself with those who want to destroy that State through force or who want to change its constitutional structure through force again. The influence of the arms embargo imposed to a country that has legitimate right to defend itself has not been mentioned in the report, nor has it been mentioned in what way it has been reflected upon the war that is in progress and the peace talks themselves.

3. The report does not address either the repeated practice of conducting new occupations during the negotiations, which is against to what has been agreed. The use of force and threats to continue with the war has substantially determined the course of the negotiations. The report does not identify, nor does it raise the issue of the responsibility of those who are violating the Security Council resolutions and the provisions of international war laws and human rights. The proposals as made by the sides are not respectively fairly interpreted. The proposals of the Bosnian delegation, that were submitted also in writing, have not been quoted or attached in the appendices. Our reserve relating article 1 of the Constitutional Agreement has not been mentioned, or it has been addressed as a request for clarification.

4. The report does not take note of the crucial fact, to which we pointed repeatedly, being that the agreement given for each document is conditioned by the agreement on the overall package of the proposed documents. This is what we hereby emphasize as well.

5. The Presidency of the Republic of Bosnia and Herzegovina insisted at the negotiations in Geneva that the settlement for Bosnia and Herzegovina should be based upon the United Nations Charter, relevant United Nations Security Council resolutions, London Conference decisions and European Community documents. Considering these documents as a definition of the mandate of both the

Conference and its Co-Chairmen, we have warned against not holding to the principles as defined by these documents.

6. The report and the proposed documents, despite our warning, contain the proposals which we do not consider to be in accordance with the mentioned principles. Therefore we ask you, when finalizing the Geneva Conference documents, to bear in mind the following objections, i.e. to inform thereof the United Nations Security Council Member States:

I. CONSTITUTIONAL AGREEMENT FOR A UNION OF REPUBLICS OF BOSNIA AND HERZEGOVINA

7. The title and the concept of this document raise doubts relating the position of legally and democratically elected administration institutions and constitutional structure of the Republic of Bosnia and Herzegovina as an internationally recognized State and a Member State of the United Nations. Its internal constitution has been changed through a non-constitutional manner, through the agreement between the representatives of the legal authorities and the personalities that have been illegal, but have military power at their disposal. Thus force and the so-called actual State have been unreasonably taken for basic criteria in creating of the new constitutional and legal situation. Therefore we continue to maintain that this document should be regarded as Constitutional Principles for future Constitution of the Republic of Bosnia and Herzegovina which is to be adopted within the framework of the International Conference on the Former Yugoslavia, as envisaged by the Vance-Owen plan.

8. Article 1 of the Constitutional Agreement does not contain an explicit provision that the Union is a State. This issues in substantial consequences relating the international and legal personality and continuity of the Republic of Bosnia and Herzegovina. We demand the United Nations Security Council bring the resolution which will reaffirm that the Union of the Republics of Bosnia and Herzegovina maintains the membership of the Republic of Bosnia and Herzegovina in the United Nations.

9. The Constitutional Agreement and other documents omit or inappropriately address the issues relate the return of refugees and reversal of ethnic cleansing. Therefore we ask for additional guarantees relating the same issue, at least those as given by the Vance-Owen plan. We have demanded these guarantees in a separate letter addressed to the Co-Chairmen. The guarantees are as follows:

(a) Explicit right of all the refugees and displaced persons to return to their homes and commitment by the authorities to provide for this, as well as the guarantees of the international community that this will be realized. Provisions on the right to settle in any part of the territory in principle are not sufficient.

(b) Provision relating all the statements and papers signed under the pressure during the war on disowning of the real estate and other property not to have any legal force has not been included either.

(c) UNPROFOR Civil Police must control and provide for ethically proportioned structure of local police forces, prevent reprisals against

minority population, protect those who are returning and contribute in every respect to the reversal of ethnic cleansing through putting into force all the court decisions, the Court for Human Rights in particular, as well as assist to the Commission and observers for human rights.

(d) The United Nations Secretary-General, as proposed by the Vance-Owen plan, should establish Commission for Human Rights for Bosnia and Herzegovina, which is to be organized in such a way that it can make records on all violations of human rights, take steps in order to remove these incidents and thereupon report, on a regular basis, to the United Nations Secretary-General, Security Council and the United Nations Commission for Human Rights, and other relevant international institutions.

II. APPENDIX II

10. Paragraph 32 of the report contains the statement that during the talks on the maps and the borders of the future republics a great deal of progress was made which is not correct. At the same time the report gives a great number of contentious issues, the positions of the sides being very distant.

11. The document does not address urgent issues like the PTT system, production and management of electric power, airspace control, radio links, water supply and water management system, establishing of the minimum of ecological standards that are of common interest for the entire Union.

III. APPENDIX III

12. In the Peace Agreement for Bosnia and Herzegovina there is no provision on placing heavy weaponry under effective international control, as it has been explicitly determined by United Nations Security Council resolution 752 and the London Conference decisions. The Agreement includes only a provision on monitoring of the withdrawal of heavy artillery which is not sufficient and is not in accordance with the mentioned international acts.

13. The Agreement does not resolve the issue of where the armed forces are to withdraw until demilitarization takes place, which would be in accordance with the new political settlement.

IV. APPENDIX IV

14. This document, inadequately recalling the 1965 Convention on Transit Trade of Land-Locked States (Bosnia and Herzegovina has access to the sea), three parties signatories of the agreement with the Republic of Croatia are mentioned. The organs of Bosnia and Herzegovina as provided by its Constitution have legitimacy for signing international treaties. Since the Union succeeds the State and legal continuity of the Republic of Bosnia and Herzegovina, the rights and commitments issuing out of this agreement are succeeded by the Union.

V. IMPLEMENTATION

15. The issue of the implementation of what is agreed has not been considered during the negotiations in Geneva. We expect that the Security Council, NATO and the European Community will give relevant international guarantees and

secure efficient implementation of the agreement which, we hope, will be reached.

Geneva, 11 August 1993

(Signed) Alija IZETBEGOVIC
President of the Presidency